

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF NEW YORK**

PABLO STAR LTD. and PABLO STAR
MEDIA LTD.,

Plaintiffs,

v.

THE WELSH GOVERNMENT, TRIBUNE
CONTENT AGENCY, LLC; and JOHN
DOES 1-10,

Defendants.

Civil Action No. 15-CV-1167(JPO)

**DEFENDANT TRIBUNE CONTENT AGENCY'S ANSWER TO
PLAINTIFFS' SECOND AMENDED COMPLAINT**

Defendant Tribune Content Agency, LLC ("TCA") hereby answers the Second Amended Complaint ("SAC") of Plaintiffs Pablo Star Ltd. ("Pablo Star") and Pablo Star Media Ltd. ("Pablo Media") (collectively, "Plaintiffs"). TCA answers the SAC in paragraphs headed, labeled and numbered to correspond to the SAC in Dkt. No. 99.

PLAINTIFFS AND THE SUBJECT WORKS

1. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.
2. TCA denies the allegations of this paragraph.
3. TCA denies the allegations of this paragraph.
4. TCA denies the allegations of this paragraph.
5. This paragraph does not contain an allegation to which a response is required.
6. TCA admits the allegations of this paragraph.

7. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.

8. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.

9. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.

10. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.

11. TCA denies the allegations of this paragraph.

JURISDICTION AND VENUE

12. TCA admits Plaintiffs purport to bring an action for copyright infringement, but denies the remaining allegations of this paragraph.

13. TCA does not contest jurisdiction in this case, but denies the remaining allegations of this paragraph.

The Welsh Government and Visit Wales

14. TCA denies the allegations of this paragraph.

15. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

16. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

17. This paragraph does not contain an allegation to which a response is required.

18. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

19. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

20. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

21. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

22. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

23. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

24. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

25. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

26. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

27. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

28. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

29. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed other defendants, and therefore denies the same.

30. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

31. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

32. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

33. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

34. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

35. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

36. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

37. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

38. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

39. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

40. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

41. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

42. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

43. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

44. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

45. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

46. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at another defendant, and therefore denies the same.

The Infringing Publishers

47. TCA admits that it received copies of one or more of the photographs in issue, states that all other entities have been dismissed as defendants from this case, and denies the remaining allegations of this paragraph.

48. TCA admits that it received copies of one or more of the photographs in issue and TCA denies the remaining allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the Court's March 16, 2016 Opinion and Order (the "March 16 Order") (Dkt. No. 53) and/or the notice of voluntary dismissal filed March 29, 2016 ("Voluntary Dismissal") (Dkt. No. 56), no response is required. To the extent a response is required, TCA is without sufficient information

to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

49. TCA does not contest jurisdiction in this case and denies the remaining allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

50. TCA does not contest personal jurisdiction in this case and denies the remaining allegations of this paragraph. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

51. TCA admits it that since 2015 it had one employee, who works out of his home, dealing with video content, in New York and denies the remaining allegations of this paragraph.

52. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

53. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

54. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

55. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

56. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

57. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

58. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

59. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

60. TCA admits the allegations of this paragraph.

61. TCA admits that it operates a website at www.mctdirect.com, the contents of which speak for itself, and denies the remaining allegations of this paragraph.

62. TCA admits the allegations of this paragraph.

63. TCA admits the allegations of this paragraph.

64. The allegations of this paragraph are not directed to a specific defendant. TCA is therefore without sufficient information to admit or deny the allegations and denies the same. To the extent that the paragraph refers to TCA, it denies it receives advertising revenue from companies located in New York that do substantial business in the state.

65. TCA denies the allegations of this paragraph.

66. TCA denies the allegations of this paragraph.

67. TCA denies the allegations of this paragraph.

68. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

Jurisdiction and Venue

69. TCA admits Plaintiffs purport to bring an action for copyright infringement, but denies the remaining allegations of this paragraph.

70. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

71. TCA admits venue is proper in this Court over it, but denies the remaining allegations of this paragraph.

FACTUAL ALLEGATIONS

72. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

73. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

74. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

75. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

76. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

77. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

78. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

79. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

80. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

81. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

82. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

83. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

84. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

85. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

86. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

87. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

88. TCA is without sufficient information to admit the allegations of this paragraph, and therefore denies the same.

89. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

90. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

91. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

92. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other entities, and therefore denies the same.

COUNT I

COPYRIGHT INFRINGEMENT AGAINST ALL DEFENDANTS

93. The foregoing responses are incorporated by reference.

94. TCA denies the allegations of this paragraph.

95. TCA is without sufficient information to admit the allegations of this paragraph and therefore denies the same.

96. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

97. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

98. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

99. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

100. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

101. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

102. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

103. TCA admits that the SAC purports to seek damages but denies Plaintiffs are entitled to an award of damages, and therefore denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

104. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

105. TCA admits that the SAC seeks a preliminary and permanent injunction but denies that Plaintiffs are entitled to such relief, and therefore denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

106. TCA admits that the SAC seeks an award of attorneys' fees and costs but denies Plaintiffs are entitled to such an award, and therefore denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

COUNT II

CONTRIBUTORY AND VICARIOUS COPYRIGHT INFRINGEMENT AGAINST THE WELSH GOVERNMENT

107. The foregoing responses are incorporated by reference.

108. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is

required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

109. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

110. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

111. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

112. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

113. TCA denies the allegations of this paragraph directed to it. To the extent the allegations contained in this paragraph relate to claims that have been dismissed pursuant to the March 16 Order and/or Voluntary Dismissal, no response is required. To the extent a response is

required, TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

114. TCA denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

115. TCA admits that the SAC purports to seek damages, fees and costs but denies Plaintiffs are entitled to an award of damages, and therefore denies the allegations of this paragraph directed to it. TCA is without sufficient information to admit the allegations of this paragraph to the extent they are directed at other defendants, and therefore denies the same.

DEFENSES

1. TCA denies any allegation in the SAC not specifically admitted herein.
2. The SAC fails to state facts sufficient to constitute a claim upon which relief can be granted.
3. Plaintiffs lacks standing or capacity to sue concerning the claims advanced.
4. Plaintiffs do not own the entire right, title and interest to the alleged copyrights.
5. To the extent that Plaintiffs purport to rely on an alleged license from Gwen Watkins, such license is invalid as having been procured by duress or fraud.
6. Jeffrey Towns procured the alleged copyrights in the photographs by a sale to him by Gwen Watkins.
7. Plaintiffs' claims are barred by the doctrine of fair use.
8. Any use of the alleged copyrights was made pursuant to license and authorized permission.
9. Plaintiffs' claims are barred by the First Amendment to the U.S. Constitution.

10. TCA is not a member, owner or subscriber to the Associated Press.
11. Plaintiffs' claims are barred by claim or issue preclusion.
12. Plaintiffs are barred from recovery by the doctrines of laches, waiver, estoppel, acquiescence, and/or unclean hands.
13. Plaintiffs' claims are barred in that any damage or injury to Plaintiffs was caused by Plaintiffs' own actions and/or conduct.
14. Plaintiffs' claims are barred by assumption of the risk.
15. Plaintiffs are barred from seeking and are not entitled to any equitable or injunctive relief.
16. TCA expressly reserves the right to assert additional defenses as they become known through further investigation and/or discovery.

RELIEF REQUESTED

TCA respectfully requests the following relief:

1. judgment in TCA's favor against Plaintiffs;
2. order denying any injunctive relief to Plaintiffs;
3. award of TCA's attorneys' fees, costs and expenses as allowed by law; and
4. such other and further relief as the Court deems just and proper

Dated: July 19, 2018

Of Counsel:

Kevin M. Bell
PORZIO, BROMBERG & NEWMAN P.C.
1200 New Hampshire Ave. NW, Suite 710
Washington, DC 20036
(202) 517-1888

Respectfully submitted,

/s/ Richard J. Oparil
Richard J. Oparil (RO9269)
Caroline C. Maxwell (*pro hac vice*)
PORZIO, BROMBERG & NEWMAN P.C.
1200 New Hampshire Ave. NW, Suite 710
Washington, DC 20036
(202) 517-1888

Attorneys for Defendant
Tribune Content Agency, LLC

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing was served on all counsel of record on July 19, 2018 through the Court's ECF system.

/s/ Richard J. Oparil
Richard J. Oparil (RO9269)